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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/618,188	07/18/2000	Laurent Depersin	PHF 99 , 563	9688

7590 11/05/2003

EXAMINER
ABRAHAM, ESAW T

ART UNIT	PAPER NUMBER
2133	

DATE MAILED: 11/05/2003

Jack D Slobod
c/o US Philips Corporation
Intellectual Property Department
580 White Plains Road
Tarrytown, NY 10591

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/618,188	DEPERSIN, LAURENT	
	Examiner	Art Unit	
	Esaw T Abraham	2133	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 June 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2 and 4-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2 and 4-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Final rejection

Response to the applicant's argument

Applicant's arguments with respect to amended claims 1, 2 and 4-7 filled in 06/24/03 have been fully considered but they are not persuasive. The examiner would like to point out that this action is made final (MPEP 706.07a).

Remarks pages 4 and 5, the applicant argues that the prior art (Javier et al.) does not teach or suggest storage means for storing information associated with a predetermined set of speech information for reconstructing vocal language, a vocal recognition means for performing vocal recognition and synthesis means to synthesize words. Unlike the applicant's argument, the prior art teaches a code processor (error correction device) (see fig. 1 element 104 or fig. 2, element 400) comprising a recognition of erroneous frame (error detector) (see fig. 4, element 407), erroneous frame/error-free frame classifier for recognizing, classifying and storing speech data (see fig. 4 element 407) and a replacement of erroneous frames (replacement means) for replacing of the erroneous frames (see fig. 4, element 402). Javier et al. teach a method of receiving speech information and classifying a received speech frame as erroneous or error-free and placing (storing) an erroneous frame in one of several replacement states for replacing the erroneous frame with a frame corresponding to a previously received error-free speech frame (see col. 4, element 47-64). Further, Javier et al. teach that the quality of the transmission connection in block (synthesis means) (409) introduced directly into the output (403) for the synthesizing (combining) of speech signal in the speech decoder (106) (see col. 6, last paragraph). As for storage means to store predetermined speech data (elements), by virtue of the fact the erroneous/error-free frame classifier must store the speech data in a buffer or a storage

device before or during classifying (processing) the speech data as erroneous or error-free frame and transmitting the speech data for further computation (for replacement or transmit with out replacement). Therefore, in light of the above, the final rejection holds strong in view of the recited references.

Furthermore, in response to the applicant's argument that the reference fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claims(s). Although the claims are interpreted in light of the specification, limitation from the specification is not read into the claims. See *in re Van Geuns,* 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). For example, "a dictionary constituted by speech elements for reconstructing all the words of the vocal language and the said vocal recognition means permanently recognizing the elements of the dictionary in the received signal during reception".

DETAILED ACTION

Claims **1, 2 and 4-7** are remained and presented for examination.

Claim objections

1. Claims 1 and 6 are objected to because of the following informalities:

Claims 1 and 6 recite "an error detection device" instead of "an error correction device".

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims **1, 2 and 4-7** are rejected under 35 U.S.C. 103(a) as being unpatentable over Javier et al (U.S. PN: 5,526,366).

As per claims **1 and 4-7,** Javier et al. disclose a communication system and a method for transmitting data between a transmitter and a receiver (see col. 1, lines 10-34) whereby the receiver receives a speech signal (see col. 1, lines 48-63 and see fig. 1 element 110) comprising a

recognition of erroneous frame (error detector) (see fig. 4, element 407), erroneous frame/error-free frame classifier for recognizing, classifying and storing speech data (see fig. 4 element 407) and a replacement of erroneous frames (replacement means) for replacing of the erroneous frames (see fig. 4, element 402). Javier et al. teach a method of receiving speech information and classifying a received speech frame as erroneous or error-free and placing (storing) an erroneous frame in one of several replacement states for replacing the erroneous frame with a frame corresponding to a previously received error-free speech frame (see col. 4, element 47-64). Further, Javier et al. teach that the quality of the transmission connection in block (synthesis means) (409) introduced directly into the output (403) for the synthesizing (combining) of speech signal in the speech decoder (106) (see col. 6, last paragraph). However, Javier et al did not explicitly teach or mention a storage means for storing speech information, by virtue of the fact the erroneous/error-free frame classifier must include a storage system for storing data as temporary or permanent during classifying (processing) the speech data as erroneous or error-free frame and before transmitting the speech data for further computation. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to store a predetermined speech data before classifying the received speech frame as erroneous or error-free and placing an erroneous frame in the replacement frame. This modification would have been obvious because one person having ordinary skill in the art would have been motivated to employ a storage means in order to enter or retain information for subsequent retrieval.

As per claim **2,** Jarvinen et al teach all subject matter claimed in claim 1. Jarvinen et al did not teach the terms phonemes or diphones. However, diphones or phonemes are known in the

art and common knowledge to most of speech transmitting systems. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made have speech elements such as phonemes or diphones. This modification would have been obvious because one person having ordinary skill in the art would have been motivated because such speech elements (phonemes) are any of abstract units of phonetic system of a language that correspond to a set of similar speech sounds which are perceived a single distinctive sound in the language.

The examiner disagrees with the applicant and maintains all rejection with respect to amended claims 1, 2, and 4-7. All the arguments have been considered. It is the examiner's conclusion that the amended claims 1, 2, and 4-7 are not patentably distinct or non-obvious over the prior art of record (see paper 10).

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

4. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Saw Abraham whose telephone number is (703) 305-7743. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are successful, the examiner's supervisor, Albert Decay can be reached on (703) 305-9595. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for after final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Esaw Abraham

Esaw Abraham

Art unit: 2133

ALBERT DECADY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100